

PT 97-2

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

C.G. JUNG INSTITUTE)	
of CHICAGO,)	93-16-1117
APPLICANT)	
)	
v.)	Real Estate Exemption
)	for 1993 Tax Year
)	
DEPARTMENT OF REVENUE)	P.I.N.S: 11-18-310-010
STATE OF ILLINOIS)	and
)	11-18-310-011
)	
)	
)	Alan I. Marcus,
)	Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

APPEARANCES:

Messrs. J. Douglas Donenfeld and Scott Saef of Sidley & Austin appeared on behalf of the C. G. Jung Institute of Chicago.

SYNOPSIS:

The sole issue¹ to be decided in this proceeding is whether any portion of the subject parcels qualify for exemption from 1993 real estate taxes under 35

¹. The Pretrial Order, (issued May 29, 1996 and included in Dept. Gr. Ex. No. 4), indicates there are two issues to be decided. The first concerns applicability of the educational exemption found in 35 **ILCS** 205/19.1. The second pertains to whether the subject parcels qualify for exemption as properties "exclusively used for charitable purposes" within the meaning of 35 **ILCS** 205/19.7.

The instant record clearly establishes that this applicant is a school, not a charitable institution. For this reason, and because the following analysis will demonstrate that applicant is entitled to a partial exemption under Section 205/15.1, considerations of administrative and judicial economy mandate that further discussion of the charitable exemption be excluded from this Recommendation.

ILCS 205/19.1.² In relevant part, that provision exempts from real estate taxes "all property of schools, ... including the real estate on which the schools are located and any other property used by such schools exclusively for school purposes, not sold or leased or otherwise used with a view to profit ...[.]"

The controversy arose as follows:

On October 29, 1993, the C.G. Jung Institute of Chicago (hereinafter the "Institute" or the "applicant"), through counsel, filed a real estate exemption complaint with the Cook County Board of (Tax) Appeals (hereinafter the "Board"). Said complaint sought exemption of the subject properties as a charitable institution. Thereafter, the Board recommended to the Department of Revenue, (hereinafter the "Department") that the requested exemption be denied. On October 13, 1995, the Department accepted this recommendation by issuing a certificate finding that the property was not in exempt ownership or use. The Institute filed a timely request for hearing November 1, 1995. After a pre-trial conference, an evidentiary hearing was conducted on applicant's request on July 29, 1996. Following submission of all evidence and a careful review of the record, it is recommended that 80% of the subject property's improvement,³ as well as 100% of its underlying land, be removed from the tax rolls for the 1993 assessment year.

FINDINGS OF FACT:⁴

². In People ex rel Bracher v. Salvation Army, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption will depend on the statutory provisions in force at the time for which the exemption is claimed. This applicant seeks exemption from 1993 real estate taxes. Therefore, the applicable statutory provisions are those contained in the Revenue Act of 1939, 35 **ILCS** 205/1 *et seq.*

³. On pages 3-4 of its post-hearing Memorandum of Law, applicant concedes that a partial or pro-rata exemption may be appropriate because a portion of the subject property is leased to mental health professionals who conduct private practices in the demised portions of the building. See, Findings of Fact 10 and 11, *infra* at p. 4. This point will be fully developed in the Conclusion, *infra* at pp. 27 - 28.

⁴. Due to the complex and voluminous nature of applicant's evidence, I have divided the Findings of Fact into seven sections: Preliminary Considerations and Description of the Subject Property, (Findings of Fact 1 through 11); Applicant's Organizational Structure, (Findings of Fact 12 through 17); Applicant's Financial Structure, (Findings of Fact 18 through 22); General Structure and Aims of Applicant's Programs (Findings of Fact 23 through 35); Applicant's Analyst Training Program, (Findings of Fact 36 through 62); Applicant's Public Education Program, (Findings of Fact 63 through 85) and

A. Preliminary Considerations and Description of the Subject Property

1. The Department's jurisdiction over this matter and its position therein are established by the admission into evidence of Dept. Group Ex. No. 1 and Dept. Ex. No. 2.

2. The subject parcels, which applicant took title to via a trustee's deed dated March 31, 1992, are located at 1565 and 1567 Maple Avenue, Evanston, IL 60201. They are identified by Permanent Index Numbers 11-18-310-010 and 11-18-310-011. Dept. Group. Ex. No. 1; Applicant Ex. Nos. 10, 11.

3. The parcels are improved with a 19,100 square foot building that has three floors and a basement. Tr. p. 53; Applicant Ex. Nos. 10, 14.

4. The basement contains two unexcavated areas, a public lunchroom and kitchen, an electrical room, a workspace and storage area, an expressive arts room, two restrooms, a public telephone area, a mechanical room area and storage space. Applicant Ex. No. 14.

5. The first floor features several entrances, four offices, two classrooms, a hallway, a bookstore, (which provides study materials for students at the Institute), a bookstore office, a conference room that is occasionally used as a classroom or lounge, a research library, a library office, a coat room, and a personnel office, which is also used by the assistant director. *Id.*; Tr. pp. 51, 148.

6. The library contains rare books of the history of psychoanalysis. There are also numerous complete sets of journals and other materials pertaining to the fields of analytical psychology, psychoanalysis, clinical psychology and social work. Tr. pp. 147-148.

7. The library also features a very rare archive which consists of a bank of images that are repetitive, recurring symbols throughout human culture. Tr. p. 148.

8. The second floor features an auditorium that can be divided into two classrooms. This floor also contains offices for the executive director, programming director and business manager as well as storage areas, a waiting area and five offices. Tr. p. 53; Applicant Ex. No. 14.

9. The third floor contains a large open area and kitchenette along with a waiting area, restrooms and ten offices. *Id.*

10. In an attempt to create a community of mental health professionals, (Tr. p. 59), applicant leased office space to fourteen different psychiatrists, psychoanalysts, certified Jungian analysts,⁵ pastoral counselors, licensed clinical psychologists and other mental health professionals during the 1993 tax year. Tr. pp. 60-63; Applicant Ex. No. 15. The offices were rented according to market value and located on the second and third floors. They occupied 3,841 square feet, or 20%⁶, of the total building space. Tr. pp. 52-53, 60.

11. All lessees were engaged in private practice and used their respective spaces to conduct same. Tr. p. 187. Nevertheless, many of the lessess taught in applicant's analyst training⁷ and public education⁸ programs. Tr. pp. 59-60.

B. Applicant's Organizational Structure

12. Applicant was originally incorporated as The Analytical Psychology Club of Chicago, under the General Not For Profit Corporation Act, on August 22, 1968. It subsequently filed Articles of Amendment that changed its corporate name to the C.G. Jung Center on August 30, 1978. Applicant Group Ex. No. 4.

⁵. SEE, Finding of Fact 25, *INFRA* at p. 8.

⁶. The 20% figure was derived by dividing the total square footage devoted to rentals, 3,841 by the total square footage of the building, 19,100.

⁷. SEE, Findings of Fact 36 through 62, *INFRA* at pp. 10 - 14.

⁸. SEE, Findings of Fact 63 through 85, *INFRA* at pp. 14 - 18.

13. Pursuant to an agreement between the parties, the C. G. Jung Center merged into the Chicago Society of Jungian Analysts, an Illinois Not For Profit Corporation, on August 31, 1984. *Id.* The surviving corporation was named the C.G. Jung Institute of Chicago and incorporated under the General Not For Profit Corporation Act of Illinois on August 31, 1984. *Id.*

14. The Institute has no capital stock or shareholders. Tr. p. 19; Applicant Ex. Nos. 6, 7. It had no retained earnings or accumulated income during the 1993 tax year. *Id.*

15. Applicant's purposes, as set forth in its amended Articles of Incorporation, are as follows:

A. To establish and maintain a post-secondary educational institution, known as the C.G. Jung Institute of Chicago, for the training of Jungian analysts in accordance with standards that shall not be less stringent than the standards of the International Association for Analytic Psychology;

B. To provide opportunities for continuing education in psychoanalysis and other forms of psychotherapy;

C. To provide means for peer review of practicing Jungian analysts and for maintenance of professional standards;

D. To encourage contributions to the advancement of knowledge of psychoanalysis and other forms of psychotherapy through research and publications;

E. To establish and maintain one or more mental health clinics;

F. To promote greater understanding of analytical psychology and related scientific disciplines;

G. To foster the coordination of educational and research activities related to analytical psychology;

H. To facilitate collegiality among trainees of The C.G. Jung Institute of Chicago and Jungian Analysts.

I. To further the study of psychology, including analytical psychology as formulated and taught by Carl Gustav Jung, who resided in the vicinity of Zurich, Switzerland, and further the knowledge and understanding of psychology through various means including among others lectures, seminars, courses, discussion groups, publications, audio and video communications and materials and library facilities.

J. To provide access to the clinical services of Jungian analysts, candidates in training, and other persons designated by the Chicago Society of Jungian Analysts.

K. To be organized exclusively for charitable, educational, religious or scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

Applicant Group Ex. No. 4.

16. On January 16, 1978, the Internal Revenue Service issued a letter finding the Institute to be exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Applicant Ex. No. 2. That exemption remained in effect throughout the 1993 assessment year. Tr. p. 17.

17. The Institute obtained tax exemption identification number E9982-7077-02 from the Illinois Department of Revenue on December 7, 1992. Said number allows the Institute to purchase tangible personal property free from Use, Retailer's Occupation and other related Illinois sales taxes until February 1, 1997. Applicant Ex. No. 3.

C. Applicant's Financial Structure

18. Applicant's fiscal year runs from September 1 through August 31. Tr. p. 29.

19. During the 1993 assessment year, applicant's total revenues amounted to \$936,373.00. Said revenues were attributable to the following sources: direct public support,⁹ \$279,595.00; program service revenue,¹⁰ \$368,099.00; membership fees,¹¹ \$48,74.00; dividends and interest, \$3,304.00; non-residential (office-space) rentals, \$70,853.00; film & tape rentals, \$4,707.00; sale of securities, \$239,224.00; gross sales of inventory, \$280,827.00; and, other unspecified sources, \$4,964.00. Applicant Ex. No. 8.

⁹. Applicant's direct public support consists of contributions from the general public. It does not receive any governmental grants. Tr. p. 32.

¹⁰. Applicant derived public service revenues from workshops, classes and analyst training program tuition, which was \$2,500.00 per student during the 1993 assessment year. (See *infra* at pp. 10-18.) Tr. pp. 34, 37.

¹¹. The membership program is basically a fund raising technique. Tr. pp. 33, 36. Approximately 55% of applicant's 1,000 members are mental health professionals. Tr. pp. 33, 36. Members pay a fee of \$70.00 per person. However, applicant adjusts that rate for students, senior citizens and couples. *Id.*

20. Applicant incurred \$818,883.00 in total expenses during the 1993 assessment year. Said expenses were apportioned as follows: Program services, 286,607.00; management and general, \$464,8396.00; fundraising, \$67,437.00. *Id.*

21. The Institute's management and general expenses included \$48,309.00 in rental expenses, \$145,014.00 in cost of securities sold and 170,631.00 in cost of goods sold in the bookstore. *Id.*; Tr. p. 37.

22. Applicant applied the net rentals, which amounted to \$27,251.00, to operating expenses and building upkeep. Tr. p. 35; Applicant Ex. No. 8. It also applied its excess income for the 1993 year, which totaled \$ 117,490.00, to the same purposes. Tr. pp. 30, 176-179.

D. General Structure and Aims of Applicant's Programs

23. Analysts or psychoanalysts are mental health professionals who have completed an intensive training program that includes personal analysis as well as intensive study of theory and practice. Tr. pp. 15, 152-153.

24. Personal analysis is designed to make therapists aware of their own conflicts and difficulties. Because some of these processes may be unconscious, they might threaten a patient's course of treatment if the therapist does not identify and (to the extent possible) eliminate them from the therapeutic transaction. Tr. pp. 15, 152-153, 260.

25. A Jungian analyst is one committed to analytical psychology, a school of psychoanalysis based on the theories of Carl Gustav Jung, (hereinafter "Jung"), as part of his or her practice base. Tr. pp. 13, 15.

26. Jung, (1875-1961), a Swiss born psychiatrist, was one of the core pioneers of pschoanalysis. Tr. p. 12. His work differed from that of Sigmund Freud, another pioneer in psychoanalysis, in that Jung believed sexuality was an important, but not exclusive, motivator in human behavior. *Id.*

27. Contrary to Freud (who stressed sexuality) Jung also believed that human behavior was motivated largely by a process he called individuation. Tr. pp. 12-13.

28. Individuation is a process by which each person's unique self or unique potential unfolds if the right circumstances, personal work, etc. are present. *Id.*

29. Applicant offers information about individuation and other aspects of analytic psychology, as well as continuing education for Social Workers, through its analyst training and public education programs. Tr. pp. 38-40. Both programs were accredited by the National Association for the Advancement of Psychoanalysis (hereinafter "NAAP") throughout the 1993 assessment year. Tr. p. 155.

30. NAAP is a national certifying board which reviews both individuals and institutions. Tr. pp. 155-156. In order to obtain institutional certification, applicant was required to create and develop an intensive self-study evaluation,¹² which NAAP reviewed. Tr. p. 156. It was also required to hold two or three days of meetings with NAAP representatives. *Id.*

31. Because the Institute is NAAP-certified, those who graduate from its analyst training program do not have to complete separate licensure or certification requirements in order to become licensed psychoanalysts. Tr. pp. 157.¹³

32. Throughout the 1993 tax year, applicant also held approval, from the Illinois Office of Education, (hereinafter "IOE"), to operate as a private, post secondary educational institution for the purpose of offering graduate level

¹². This evaluation includes information about the academic credentials of the faculty. It also requires disclosure of information pertaining to the library as well as other aspects of the program, such as its aims and goals, supervision requirements, etc. Tr. p. 156.

¹³. The State of Illinois presently does not (and during the 1993 tax year did not) license Jungian analysts or psychoanalysts. Tr. pp. 14-15. However, as will be discussed in the Conclusion, *infra* at pp. 24 - 25, the State has enacted an extensive scheme of legislation requiring licensure for clinical social workers, professional counselors and other mental health practitioners.

programs in analytical psychology that will qualify graduates as Jungian Analysts. Applicant Ex. No. 16. It also held a license, issued by the Illinois Department of Professional Regulation (hereinafter "DPR"), to offer continuing education courses for Social Workers. Tr. p. 155; Applicant Ex. No. 31.

33. In order to obtain and maintain the license from DPR, applicant was required to demonstrate compliance with the following criteria: first, that the programs it offers will enhance the skills of mental health professionals; second, that such programs will enhance the values underlying the field (of Jungian analysis); third, that it employs a competent faculty; fourth, that the courses it offers have specific objectives and outcomes; and fifth, that it has the administrative support staff necessary to provide DPR with any records it may require. Tr. pp. 157-158.

34. The instructors who teach in these programs hold PhDs or other advanced degrees. Applicant Ex. No. 24. Most of these degrees relate to some aspect of mental health. One instructor holds a JD. *Id.*

35. The Institute's instructors have held a variety of teaching assignments, including faculty appointments at Northwestern University, the University of Notre Dame, Purdue University, the University of Maryland, the University of Illinois, Yale University, Chicago Theological Seminary, the University of Chicago and Dartmouth College. *Id.*

E. Applicant's Analyst Training Program

36. The Analyst Training Program (hereinafter "ATP") is a post-graduate course of training, taught exclusively by certified Jungian analysts, for mental health professionals and practitioners who are at least 25 years of age and hold at least a master's degree in their field of study. Tr. pp. 39, 70, 86, 102.

37. Those admitted to this program are empathetic, mature, intelligent, psychologically-minded clinicians (professionals who are licensed to provide psychological and social treatment) with strong ethical integrity and a solid

background in some area of practice related to mental health. Tr pp. 73, 75, 195.

38. During the 1993 assessment year, annual tuition for the ATP program, in which 32 students participated was \$2,500.00. Tr. pp. 75, 77; Applicant Ex. No. 17. However, total cost of the program, including supervision, self-analysis, tuition and exam fees, was between \$50,000.00 - \$75,000.00. Applicant Ex. No. 17.

39. The Institute received nine applications for admission to the ATP during the 1993 tax year. Tr. p. 74. It admitted four of the nine prospective applicants.¹⁴

40. Prospective applicants must provide the Institute with the following information: evidence that, over a period of not less than two years, they engaged in at least 100 hours of personal analysis with a certified Jungian analyst; transcripts from undergraduate and graduate studies; a current resume or curriculum vitae; and an autobiographical statement of not less than 200 words. Tr. pp. 70-71.

41. After submitting this information, prospective applicants meet with each member of the Institute's admissions committee, which consists of five people. Tr. p. 71. When the committee completes these individual interviews, it convenes, makes an extensive review of each prospective applicant, and then makes a decision about which prospective applicants will continue to be considered for admission. Tr. pp. 70-72, 74.

42. Those admitted to the ATP cannot graduate unless they complete 375 classroom hours in not less than four years. Tr. pp. 90, 97; Applicant Ex. No 17. They are also required to complete at least 1,500 hours of clinical

¹⁴. I use the term "prospective applicant[s]" to denote those who have applied for admission to the ATP. I use this term in order to avoid confusion between those seeking admission to the ATP, and the Institute, which is the applicant in the instant proceeding.

training¹⁵ and engage in personal analysis throughout their experience in the ATP. Tr. p. 128; Applicant Ex. No. 17.

43. The Institute divides the coursework into four tracks plus training weekends. Tr. p. 145. It also divides each year, (during which it offers approximately 30 ATP courses), into ten-week quarters that begin in the fall, winter and spring. Tr. pp. 79, 145; Applicant Ex. Nos. 17, 20.

44. The four course tracks are History and Development of Analytical Psychology (hereinafter H&D), Clinical Aspects of Analytic Practice (hereinafter CAAP),¹⁶ Archetypal Patterns of the Psyche (hereinafter APP)¹⁷ and Case Colloquia.¹⁸ Applicant Ex. No. 17. ATP student complete these tracks, plus training weekends, in three stages. *Id.*

45. The preliminary (or first) stage encompasses the first year of training. ATP students must complete the first year of H&D while in this phase. This extensive, four-year course is mandatory for all ATP students and satisfies

¹⁵. The clinical training process involves acting as a primary therapist in the treatment of patients with psychotherapy. Tr. p. 129.

¹⁶. Courses in the CAAP track are ten week attendance elective courses that integrate theory and practice. Two CAAP track courses run simultaneously. One is for advanced candidates (3rd year of study or beyond) and one is open to all trainees. In order to receive credit for attending the course in each quarter, candidates must attend 8 out of 10 sessions. Applicant Ex. No. 17.

¹⁷. This track involves six week, attendance elective courses that deal with archetypal materials, i.e. "Myth and Psyche," "The King and the Corpse," "Fairy Tales," "Persephone in Culture," etc. Applicant Ex. No. 17. These materials are important to analytic psychology because they provide an understanding of symbols as the language of the unconscious mind. Tr. p. 265. Students cannot receive credit for courses in the APP track unless they attend 5 of the 6 class sessions. Applicant Ex. No. 17.

¹⁸. The case colloquia occur twice per quarter. One colloquium occurs in weeks 1 and 2 while the other occurs in weeks 9 and 10. Each colloquium is two weeks long and worth four credit hours. Students must attend both weeks in order to receive credit for the entire colloquium. Applicant Ex. No. 17. They must also attend 40 hours of colloquia in order to graduate. Tr. p. 91.

Each two week colloquium usually centers around an advanced candidate's presentation of one case. While the Institute requires each student to make three presentations prior to graduation, a (faculty) analyst is present at each session in order to facilitate discussion. Tr. p. 91, Applicant Ex. No. 17.

approximately 120 of the 375 total classroom hours required for graduation. Tr. pp. 89-90; Applicant Ex. No. 17.

46. The Institute will not allow ATP students to receive attendance credit for any particular quarter of the H&D course unless they attend 8 out of the 10 classroom sessions in each quarter. *Id.*

47. The preliminary stage also requires participation in a supervision program, wherein the student engages in ongoing discussion of clinical practice issues with a member of the Chicago Society of Jungian Analysts. *Id.* Topics discussed in this program, participation in which satisfies the supervision requirements for licensed social workers and licensed clinical social workers, include diagnoses and treatment strategies. Tr. pp. 108, 163.

48. Students who do not successfully complete the preliminary stage may be asked to leave the ATP. Those that remain pass into the candidacy stage, which can not be completed in less than one year. Applicant Ex. No. 17.

49. The classroom format and supervision requirements for the candidacy stage are essentially the same as those for the preliminary phase. However, students in the former may not attend advanced candidate seminars until the third year of study. They also are unlikely to present a case for a colloquium until they have passed the Propaedeuticum Exams. (hereinafter the "Propaedeuticum."). *Id.*

50. The Institute does not allow candidates to take the Propaedeuticum before June of their first year in the candidacy phase. Students must also complete 200 hours of personal analysis and 50 hours of practice consultation before taking the Propaedeuticum. Candidates cannot pass into the next phase of the ATP until they pass the Propaedeuticum. *Id.*

51. The Propaedeuticum itself is composed of 5 exams. Candidates are given a choice of taking two of the five in oral or written format. They must, however, submit to an exclusively oral format when taking the remaining exams. *Id.*

52. Of the two exams which may be taken orally or in writing, one pertains to the APP track, while the other covers H&D. The three oral exams are devoted to the following subjects: Practice of Analytical Psychology; Jungian Understanding of Personality and Psychopathology; and, Activation and Interpretation of Unconscious Material. *Id.*

53. In addition to passing the Propaedeuticum, ATP students can not complete the candidacy phase unless they submit a 10-20 page paper on any aspect of analytical psychology. Tr. pp. 116-117.

54. The control (or final) stage of the ATP results in graduation. It can not be completed in less than two years. *Id.*

55. Class structure remains the same as in the preliminary and candidacy phases. However, students in the control stage make presentations at case colloquia. *Id.*

56. Students in the control phase are subject to very strict supervision requirements. In order to fulfill these requirements, a control phase student must act as an analyst for at least two patients. He or she must then spend a minimum of 50 hours discussing each case, (for a total of not less than 100 hours), with a supervising control analyst. Tr. p. 120; Applicant Ex. No. 17.

57. Students can not apply supervision time which they earned in the preliminary and candidacy stages toward this 100 hours of controlled supervision. They must also remain in supervision after the case requirements have been satisfied. Applicant Ex. No. 17.

58. The Institute also requires students in the control phase to complete separate case and theses reviews. Both reviews are monitored by committees. *Id.*

59. The case review committee (hereinafter "CRC") monitors the progress of each control stage candidate's analytic development. It also provides assurance to the control stage candidate and the training committee that the cases identified for possible final presentation are appropriate "analytic"

cases in terms of their capacity to satisfy the graduation and certification requirements. *Id.*

60. The thesis review committee performs similar functions except that it closely monitors a control stage candidate's efforts to produce the Diploma Thesis, which is required for graduation from the ATP and certification as a Jungian analyst. *Id.*

61. Successful completion of the Case and Theses Reviews culminate in graduation and certification as a Jungian analyst. However, control stage candidates must also meet with each member of the Certifying Committee, which monitors the student's progress at the control stage, at least once per year, and the entire committee not less than twice, prior to graduation. *Id.*

62. Those who graduate from the ATP receive a diploma in analytic psychology. Tr. p. 97. The Institute conferred between three and five such diplomas during the 1993 tax year. Tr. p. 94

F. Applicant's Public Education Program

63. Applicant's Public Education Program (hereinafter "PEP") is designed to provide the lay public with educational programs that enhance their living skills. The PEP also enables ATP students to fulfill their elective requirements and seeks to provide other mental health professionals with a more extensive knowledge of skills related to the practice of psychotherapy. Tr. pp. 120, 133.

64. The PEP itself, through which the Institute offers approximately 80 events on an annual basis, consists of various courses, film discussions, seminars, lectures, programs and workshops. Tr. p. 145; Applicant Ex. Nos. 27-1 through 27-4. The Institute sets forth these offerings (nearly 40 of which are classes) in four separate catalogues that contain information for the spring, summer, fall and winter sessions. Tr. p. 146; Applicant Ex. Nos. 27-1 through 27-4.

65. Approximately half of those who take PEP courses are mental health professionals. Tr. p. 146. Most others come from related fields, such as clergy, teaching and personnel management. *Id.*

66. Many PEP courses satisfy continuing education requirements for licensed or clinical social workers. Tr. p. 141-142. The Institute issues certificates and transcripts of attendance, which verify participation in these courses, upon request. Applicant Ex. No. 27-1.

67. Cost of the various PEP programs offered during the 1993 tax year ranged from \$5.00 for a single session film discussion to \$250.00 for a five-day course in Clinical Methods in the Practice of Analytical Psychology. Applicant Ex. Nos. 27-3, p. 6, 27-2, p. 16. However, most of the programs cost between \$65.00 and \$110.00. Applicant Ex. Nos. 27-1 through 27-4.

68. The Institute offers its members a \$10.00 discount on the cost of most PEP programs. *Id.* In limited cases, members can attend a film discussion for free or receive a course discount that exceeds \$10.00. Applicant Ex. Nos. 27-4, p. 8, 27-2, p. 15.

69. Applicant also offers scholarships to senior citizens (62 years of age or older) and full time students who cannot afford to pay the full cost of Institute events. Applicant Ex. Nos. 27-1 through 27-4. These scholarships are derived from a pool of volunteer work credits and pay a maximum of 50%, up to \$50.00, of the cost of class, seminar or workshop fees. *Id.*

70. Unlike the ATP, the Institute does not require those seeking admission to PEP courses to present evidence of participation in self-analysis. Tr. p. 136. However, applicant classifies PEP courses (which last from 8 to 18 hours each) according to a system of levels. Tr. pp. 135-137, 139; Applicant Ex. Nos. 27-1 through 27-4; Applicant Ex. No. 28.

71. Applicant employs this system, and imposes prerequisites for certain higher-level courses, in order to determine whether admission to a given course

is open to the public or restricted to mental health practitioners. Tr. pp. 135-139, 142.

72. Some of the prerequisites are based on clinical experience rather than taking lower-level classes. Tr. p. 142.

73. Level one courses are open to the general public. Tr. p. 137. They include courses such as Fundamental Concepts of Analytic Psychology, which is taught at an "absolute beginner" or entry level. Tr. p. 137; Applicant Ex. No. 28.

74. Level two courses include The Life and Work of C.G. Jung, Myths, Dreams and Movies: Myths and Cosmos and The Development of Personality. Applicant Ex. No. 28. Those in level three include The Archetype and the Nature of the Unconscious and Modern Consciousness and the Mythological World. *Id.*

75. Students admitted to level four courses have no previous exposure to analytical psychology. Tr. p. 138. However, they must be social workers, psychologists, licensed professional counselors or other mental health practitioners. *Id.*

76. Level five courses are restricted to mental health practitioners who have a grasp of theories related to analytical psychology. Tr. p. 138. Applicant offered only one level five course, Clinical Methods in the Practice of Analytic Psychology, during the 1993 tax year. Applicant Ex. No. 28.

77. The Institute also divides its PEP courses into the following areas: Life Issues and Practical Application (hereinafter "Life Issues"); Cultural Issues; Professional Development; Archetypal Expressions of the Psyche; and, Concepts and dynamics of Analytical Psychology and Related Fields (hereinafter "Concepts"). Applicant Ex. No. 29.

78. Courses in the Life and Cultural Issues tracks are open to the public. Tr. p. 135. The former track focuses on issues such as the psychology of work or understanding relationships. Tr. p. 135. The latter is devoted to social problems, such as alcoholism, violence and child or sexual abuse. *Id.*

79. The Professional Development track is restricted to mental health practitioners because its courses address issues in the therapeutic relationship. Tr. pp. 135.

80. The syllabus for the Concepts course, (which, during the 1993 tax year, focused on Jung's life and work), is identical to the one followed by ATP students in the H&D track. Applicant Ex. No. 28; Tr. p. 134. However, whereas ATP students complete the syllabus over a minimum of four years, those in the certificate program complete it in two. Tr. p. 134.

81. Those who complete the Concepts course syllabus are eligible to receive a certificate from the Institute. Tr. p. 134. This certificate does not entitle the bearer to any practice privileges within the mental health profession. Tr. p. 141. Nevertheless, those who obtain it can take higher level courses at the Institute. *Id.*

82. The descriptions for some PEP courses contain suggested, but not required, readings. Applicant Ex. Nos. 27-1 through 27-4. In courses where reading is required, the student may need to read up to 200 pages per week, as is the case with courses in the certificate program. Tr. p. 140; Applicant Ex. No. 29.

83. PEP students are not required to submit written work, take exams or participate in supervision. Tr. pp. 140, 166; Applicant Ex. No. 29. They are, however, welcome to submit papers which their instructors will evaluate. Tr. p. 141.

84. The Institute also offers independent study programs as part of its PEP. *Id.* Interested students are referred to one of the Institute's faculty whose area of expertise mirrors that of the student's interest. After receiving this referral, the student will often submit a paper as part of his or her independent study. *Id.*

85. The PEP and ATP faculties are the same except that students in the final stage of the ATP are expected to teach some PEP courses. Tr. pp. 147, 171.

G. Comparison of the ATP and PEP with Other Advanced Education Programs¹⁹

86. In general, the Institute's curriculum (which encompasses the ATP and PEP) is comparable to master and PhD-level psychology and social work programs. Tr. p. 154.

87. The ATP is similar to the clinical social work program at the Jane Addams School of Social Work (University of Illinois, Chicago, hereinafter "Jane Addams") in that both programs strive to train and educate clinicians to carry out therapeutic interventions²⁰ aimed at restoring, maintaining or enhancing psychological and social functioning. Tr. pp. 194-197.

88. Both programs also require participation in case colloquia and feature curricula built around the following areas: human development through the life course;²¹ psychopathology or dysfunction;²² ethical issues;²³ and clinical methods.²⁴ Tr. pp. 197-200, 213.

¹⁹. The Findings of Fact in this Section are based almost exclusively on the testimony of William Borden, PhD. at Tr. pp. 183 - 251 and Kennon McKee, PhD. at Tr. pp. 251 - 274. Dr. Borden's extensive qualifications (set forth in Applicant Ex. No. 32), include a doctorate in Social Work and Human Development from the University of Chicago as well as faculty appointments at the Jane Addams School of Social Work and the University of Chicago. He has also studied at the Institute on an intermittent basis, with approximately 25 to 30 ATP and PEP courses to his credit since 1984. Tr. pp. 187, 246.

Dr. McKee's qualifications include a doctorate in Clinical Psychology from the Chicago School of Professional Psychology, experience in conducting a private practice, and certification as a Jungian analyst through participation in, and graduation from, applicant's ATP. Tr. pp. 251-254.

Based on the qualifications of these witnesses, I conclude they have sufficient knowledge of the subject matter with respect to advanced education for mental health professionals. Therefore, they qualify as experts in that field. Taylor v. The Carborundum Co., 107 Ill. App.2d 12 (1st Dist. 1969); People v. Johnson, 145 Ill. App.3d 626 (1st Dist. 1986). Accordingly, I base Findings of Fact 86 through 91 on their opinions.

²⁰. Therapeutic interventions are diagnostic and assessment procedures that lead to the application of techniques in the effort to restore, maintain, and enhance psychological functioning in the context of individual, couple, family or group systems. Tr. p. 196.

89. Methodologies used to provide instruction in the ATP can be compared to those employed in the Master of Social Work (hereinafter "MSW") programs at Jane Addams and University of Chicago (hereinafter "U of C") according to the following criteria: due to its breadth, depth, scope and focus, the ATP cannot be completed in less than four years, whereas both MSW programs can be completed in two (Tr. pp. 223-224); ATP classes last 4, 6 or ten weeks (and in some cases, full weekends) as opposed to 15 weeks at Jane Addams and 10 weeks at U of C (Tr. p. 224); each ATP class meets for 1.5 to 2.0 hours per week (or 16 hours if the class takes place over a weekend) rather than 2-3 or 3 hours per week, as is the case at Jane Addams and U of C (Tr. p. 225); although all three programs adhere to similar requirements in terms of the amount of required reading (approximately 150 to 300 pages per week), ATP students must complete considerably more written work than their counterparts at U of C and Jane Addams²⁵ (Tr. pp. 225-226); ATP students are evaluated according to a system of 20 individual and 5 committee interviews, 8 clinical reviews and Propaedeuticum

²¹. These courses tend to be theoretical and involve study of material related to personality structure, standardized personality inventory tests, comparative theories of human development, concepts of introversion and extraversion, etc. Tr. pp. 203-206.

²². Psychopathology is the study of a continuum of mental disorders that stem from various causes. Clinicians generally classify these causes into two major groups. The first stresses organic (or bodily-related) factors. The second looks at how and the extent to which functional considerations (i.e social and psychodynamic influences) contribute to mental disorders. Tr. p. 198.

²³. The ethical issues curricula addresses central values that inform and shape the way clinicians proceed in their work. Such issues range from how to think of each person as a unique individual to the rules, expectations and standards that govern implementation of treatment. Tr. pp. 199-200.

²⁴. Clinical methods courses involve study of skills and techniques necessary to actually implement the therapist's knowledge of appropriate treatments. Tr. p. 200.

²⁵. ATP students are required to complete a candidacy paper, three case presentations, two case studies a Diploma thesis and other required papers. Tr. pp. 225-226. In contrast, students in master's programs are generally required to prepare two papers per course and may be obligated to submit a second-year research thesis. Tr. p. 226.

exams²⁶ as well as oral Case and Diploma theses defenses, rather than the grading systems²⁷ and field work reviews employed in both master's programs (Tr. p. 227); and finally, whereas students at U of C and Jane Addams must complete at least 1,125 of clinical experience in order to graduate, those in the ATP are subject to a 1,500-hour minimum. (Tr. pp. 227-228).

90. Unlike the Institute, Jane Addams does not have a formal structure that provides continuing education courses to mental health professionals. Tr. p. 248. Nevertheless, its MSW program offers courses in the following areas which are similar to those found in applicant's PEP: human development and personality; clinical methods and the conduct of psychotherapy; psychopathology; personality disorders; and severe mental illness. *Id.*

91. Jane Addams also offers a sequence of courses in Human Behavior in the Social Environment. *Id.* The content of these courses is similar to PEP classes that focus on Archetypal materials. *Id.*

CONCLUSIONS OF LAW:

On examination of the record established this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant a partial exemption from property taxes for the 1993 assessment year. Accordingly, under the reasoning given below, the determination by the Department that the above-captioned parcel does not qualify for exemption under 35 **ILCS** 205/19.7²⁸ should be partially reversed. In support thereof, I make the following conclusions:

²⁶. See, Findings of Fact 50-52, *supra* at p. 13.

²⁷. Jane Addams uses a 0 to 5.0 grading scale, U of C employs one that ranges from 0 to 4.0. Applicant Ex. No. 34.

²⁸. As noted in the Synopsis and footnote 1, (*supra* at pp. 1-2), applicant initially sought exemption under the provision that pertains to charitable institutions, 35 **ILCS** 205/19.7. For this reason, I conclude that the Department's decision denying exemption (See, Dept. Ex. No. 2) was based on lack of conformity with the statutory and common law requirements for charitable, as opposed to school, status. See, Methodist Old People's Home v. Korzen, 39 Ill.2d 149 (1968); Yale Club of Chicago v. Department of Revenue, 214 Ill. App.3d 468 (1st Dist. 1991).

A. Constitutional and Statutory Considerations

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The power of the General Assembly granted by the Illinois Constitution operates as a limit on the power of the General Assembly to exempt property from taxation. The General Assembly may not broaden or enlarge the tax exemptions permitted by the Constitution or grant exemptions other than those authorized by the Constitution. Board of Certified Safety Professionals, Inc. v. Johnson, 112 Ill.2d 542 (1986). Furthermore, Article IX, Section 6 is not a self-executing provision. Rather, it merely grants authority to the General Assembly to confer tax exemptions within the limitations imposed by the Constitution. Locust Grove Cemetery Association of Philo v. Rose, 16 Ill.2d 132 (1959). Moreover, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App.3d 497 (1st Dist. 1983).

In furtherance of its Constitutional mandate, the General Assembly enacted the Revenue Act of 1939, 35 **ILCS** 205/1 *et seq.* The provision of that statute governing disposition of the present matter is found in Section 205/19.1, which, in relevant part, exempts from real estate taxation:

all property of schools, ... including the real estate on which the schools are located and any other property used by such schools exclusively for school purposes, not sold or leased or otherwise used with a view to profit ...[.]"

B. Rules of Construction and the Burden of Proof

It is well established in Illinois that a statute exempting property or an entity from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. People

Ex Rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Based on these rules of construction, Illinois courts have placed the burden of proof on the party seeking exemption, and, have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

C. Definition of "School" and Analysis of the Relevant Exemption

In People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132 (1911), (hereinafter "McCullough"), the Illinois Supreme Court offered the following definition of "school" when considering whether appellant's property was exempt from property taxes under the then applicable Constitutional mandate and relevant statutory provisions, which the court held did not exempt the property by retroactive application:

A school, within the meaning of the Constitutional provision, is a place where systematic instruction in useful branches is given by methods common to schools and institutions of learning, which would make the place a school in the common acceptance [sic] of the word.

McCullough at 137. See also, People ex rel Brenza v. Turnverein Lincoln, 8 Ill.2d 198 (1956), (hereinafter "Brenza"); Coyne Electrical School v. Paschen, 12 Ill.2d 387 (1957), (hereinafter "Coyne").

This applicant's compliance with the above criteria is established in the Findings of Fact pertaining to its ATP and PEP programs. Such compliance is also evident from the Findings of Fact establishing the Institute's NAAP accreditation as well as its DOR licensure and IOE approval. Cf. Milward v. Paschen, 16 Ill.2d 302 (1959). Based on these Findings, I therefore conclude that applicant is a "school" within the meaning of Article IX of the Illinois Constitution and Section 205/19.1. Accordingly, I must refocus my analysis on

the extent to which applicant satisfies the remaining common law requirements for exemption under Section 205/19.1.

Current Illinois case law holds that a private school, such as applicant, cannot obtain an exemption from real estate taxes unless it establishes two propositions by clear and convincing evidence: first, that it offers a course of study which fits into the general scheme of education established by the State; and second, that it substantially lessens the tax burdens by providing educational training that would otherwise have to be furnished by the State. Illinois College of Optometry v. Lorenz, 21 Ill. 219 (1961), (hereinafter "ICO").²⁹

In ICO, the court began analyzing whether applicant's optometry school satisfied the above criteria by noting that "[t]he Illinois Optometric Practice Act³⁰ has expressly declared that the practice of optometry in this State affects the public health, safety and welfare ...[.]" ICO, *supra* at 219. The court further observed that the General Assembly intended "to elevate the practice of optometry to that of a profession or skilled occupation similar to the practice of medicine, surgery or dentistry." *Id.*

Here, the General Assembly has enacted an extensive and pervasive scheme of legislation which manifests the State's interest in regulating and licensing those who treat the mentally ill or provide counseling services to others in need. See, The Clinical Psychologist Licensing Act, 225 **ILCS** 15/1 *et seq* (hereinafter "CPLA"); The Clinical Social Work and Social Work Practice Act, 225 **ILCS** 20/1 *et seq* (hereinafter "CSW & SWPA"); The Marriage and Family Therapy

²⁹. See also, Coyne, supra; Brenza, supra; Board of Certified Safety Professionals of the Americas v. Johnson, 112 Ill. 2d 542 (1986); American College of Chest Physicians v. Department of Revenue, 202 Ill. App.3d. 59 (1st Dist. 1990); Yale Club of Chicago v. Department of Revenue, 214 Ill. App.3d 468 (1st Dist. 1991); Winona School of Professional Photography v. Department of Revenue, 211 Ill. App.3d 565 (1st Dist. 1991).

³⁰. At the time ICO was decided, those provisions appeared at Ill. Rev. Stat.1959, chap. 91. par. 105.2 *et. seq.* The current version is found in 225 **ILCS** 80/1 *et seq.*

Licensing Act, 225 **ILCS** 55/1 *et seq* (hereinafter "MFTLA"); The Medical Practice Act of 1987, 225 **ILCS** 60/1 *et seq*; and The Professional Counselor and Clinical Professional Counselor Licensing Act, 225 **ILCS** 107/1 *et seq*. (hereinafter "PC & CPCLA").³¹

Each of the aforementioned statutes contains a declaration of public policy setting forth the General Assembly's judgment that the State is undertaking regulation of the subject activities in order to protect the public interest³² and/or engage in an exclusive exercise of its police powers.³³ Without exception, these statutes also establish strict educational, examination and licensure requirements, of which I take administrative notice.³⁴ I also take notice that the CSW & SWPA and regulations promulgated thereunder,³⁵ as well as the MFTLA and PC & CPL, all provide that licenses may not be renewed unless continuing education requirements are satisfied.³⁶

Illinois presently does not license Jungian analysts. Nevertheless, this applicant offers a course of study that fits into the above scheme of educational requirements via its PEP. In particular, the PEP classes that satisfy continuing education requirements for LSWs and LCSWs demonstrate conformity not only with the aforementioned statutory requirements, but also, the regulations which enumerate specific continuing education requirements for

³¹. Regulations implementing these statutes may be found in the following Sections of 68 Ill. Admin. Code, ch. VII: Section 1400.10 *et seq*; Section 1470.10 *et seq*; Section 1283.10 *et seq*; Section 1285.20 *et seq* and Section 1375.10 *et seq*.

³². See, 225 **ILCS** 15/1; 225 **ILCS** 20/1; 225 **ILCS** 55/5; 225 **ILCS** 107/5.

³³. See, 225 **ILCS** 15/28; 225 **ILCS** 60/3.

³⁴. See, 225 **ILCS** 15/3, 15/10 - 15/13; 225 **ILCS** 20/7 - 20/11; 225 **ILCS** 55/25 - 55/45; 225 **ILCS** 60/3, 60/8 - 60/9, 60/11 - 60/12, 60/15, 60/17, 60/19 - 60/21; 225 **ILCS** 107/20, 107/35 - 107/50.

³⁵. See, 68 Ill. Admin. Code, ch. VII, Sec. 1470.95.

³⁶. See, 225 **ILCS** 20/11(a); 225 **ILCS** 55/45(a); 225 **ILCS** 107/50(a).

these mental health professionals. See, 68 Ill. Admin. Code, ch. VII, Sections 1470.90, 1470.95.

Dr. Borden's expert opinion establishes that the PEP classes which satisfy these requirements for LSWs and LCSWs are equally as comprehensive and exacting as a number of courses taught in the MSW program at Jane Addams. Cf. ICO, *supra* at 223. Therefore, I conclude that because the Institute offers these classes, and provides appropriate evidence of attendance upon request, it substantially lessens tax burdens by providing educational training that would otherwise have to be furnished by the government. Brenza, *supra* at 202-203; Coyne, *supra* at 392-397; ICO, *supra* at 221.

I would also note that, inasmuch as Jane Addams does not offer continuing education courses for LSWs and LCSWs, the Institute substantially lessens tax burdens in a manner consistent with that of the ICO appellant. There, the court observed that "[i]f the plaintiff did not furnish its course of instruction, and if the right to practice optometry could be gained only through the attainment of a medical degree with specialization in ophthalmology, it is manifest that the tax burden of maintaining premedical and medical schools would be substantially greater than it is." ICO at 223.

Here, the Regulations contained in 68 Ill. Admin. Code, ch. VII, Sections 1470.95(a) through 1470.95(d), (of which I take administrative notice), mandate that LSWs and LCSWs can not fulfill their continuing education unless they attend State-approved facilities, such as the Institute. Because these regulations further provide that completion of such requirements is a prerequisite for license renewal, (and its associated privilege of providing counseling services to the mentally ill and others in need), fundamental economic principles seem to dictate that the demand for such programs at tax-supported institutions of higher learning (i.e. Jane Addams) would increase if the Institute did not offer accredited continuing education courses. Thus, following the reasoning set forth in ICO, such principles lead me to conclude

that Jane Addams and other publicly-supported institutions could not meet this demand without imposing additional maintenance costs on Illinois taxpayers.

Despite the Institute's conformity with the above criteria, Findings of Fact 10 and 11 establish that it does not devote the entire subject premises (or more properly, the improvement thereon), to exempt purposes. Rather, it leases 20% of the total building space to mental health professionals who, pursuant to leases with the applicant, conduct private practices in their respective offices.

The plain meaning of Section 205/19.1 bars exemption where the subject property is "leased or otherwise used with a view to profit." This statutory prohibition was reinforced in People ex. rel. Baldwin v. Jessamine Withers Home, 312 Ill. 136 (1924) (hereinafter "Baldwin"), wherein the Illinois Supreme court established the well-settled principle that "[i]f real estate is leased for rent, whether in cash or other form of consideration, it is used for profit." Baldwin at 140. Thus, "[w]hile the application of income to [exempt] purposes aids the [allegedly exempt entity], the primary use of [the parcel in question] is for [non-exempt] profit." *Id.*

Here, 80% of the subject property's improvement is *not* leased for rent. Rather, that percentage of space is devoted to various activities (i.e. classrooms, library, bookstore, etc.) that relate to administration and fulfillment of the educational purposes set forth in applicant's Articles of Incorporation. Accordingly, unlike the Baldwin court, (which completely denied exemption based on lack of exempt use), I cannot conclude that the subject property's improvement is primarily used for non-exempt purposes.

In Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971), (hereinafter "ITT"), the Illinois Supreme court reaffirmed the long-standing principle that "[w]here a tract is used for two purposes, there is nothing novel in exempting the part used for an exempt purpose and subjecting the remainder to taxation." *Id.* at 64.

The property at issue in ITT was a 107-acre tract. Appellant leased 40 of the 107 acres to a private individual for crop purposes at market rate for the area. However, it was developing or using the remaining 67 acres, which contained a 12,000 square foot building and other facilities, for classroom, research and office purposes.

Appellant in ITT sought to exempt the entire tract, arguing that the leased portion would eventually be used as part of its plan to develop "a major auxiliary campus." *Id.* at 60. The court however found that the lease prevented applicant from actually using or developing the 40 acres for exempt purposes during the year in question. Accordingly, it denied exemption as to that portion of the tract but held in favor of exemption for the 67 acres that were actually being developed or used for purposes related to education.

The instant record establishes that 20% of the subject property's improvement is not used for exempt purposes. Accordingly, the Baldwin and ITT holdings mandate that this portion of the improvement remain on the tax rolls for the 1993 assessment year. However, inasmuch as the discussion of McCullough and ICO, (*supra* at pp. 24- 30) establishes that the remaining 80% is devoted to "school" purposes within the meanings of Article IX of the Illinois Constitution and Section 205/19.1, I recommend that this percentage of the improvement be exempt from 1993 real estate taxes. In addition, because the plain language of Section 205/19.1 specifically exempts the "real estate on which the schools are located," I further recommend that 100% of the subject property's underlying land be removed from the 1993 tax rolls.

WHEREFORE, for the reasons stated above, it is my recommendation that 80% of the subject property's improvement, as well as the entirety of its underlying land, be removed from the tax rolls for the 1993 assessment year.

Date

Alan I. Marcus,
Administrative Law Judge